

***United States Court of Appeals  
for the Second Circuit***



**SUPPLEMENTAL  
APPENDIX**



74 - 2529

74-2529

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

JAMES L. McCARTHY, HUBERTA McCARTHY, PETER F. FAY  
and SHARON L. FAY,

Plaintiffs,

SHARON L. and PETER F. FAY,

Plaintiffs-Appellants,

- against -

EAST AFRICAN AIRWAYS CORPORATION, BRITISH  
AIRCRAFT CORPORATION, LTD., BRITISH AIRCRAFT  
CORPORATION (Commercial Aircraft), LTD.,  
BRITISH AIRCRAFT CORPORATION (Operating), LTD.,  
BRITISH AIRCRAFT CORPORATION (U.S.A.), INC.,  
DUNLOP LIMITED, DUNLOP HOLDINGS, DUNLOP CO.  
OF GREAT BRITAIN and BRITISH OVERSEAS AIRWAYS  
CORPORATION, now known as BRITISH AIRWAYS,

Defendants,

EAST AFRICAN AIRWAYS CORPORATION,

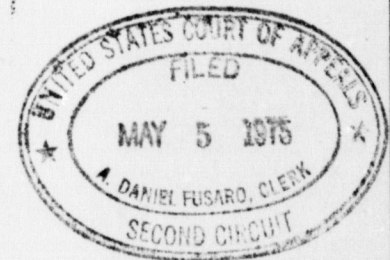
Defendant-Appellee.

On Appeal from the United States District Court  
For the Southern District of New York

S U P P L E M E N T A L   A P P E N D I X

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PAGINATION AS IN ORIGINAL COPY



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ADMISSION DIRECTED TO  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

JAMES L. MCCARTHY, HUBERTA MCCARTHY,	:	73 Civ. 1984 RO
PETER F. FAY and SHARON L. FAY,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	
	:	
EAST AFRICAN AIRWAYS CORPORATION,	:	<u>STIPULATION</u>
BRITISH AIRCRAFT CORPORATION, LTD.,	:	
BRITISH AIRCRAFT CORPORATION	:	
(Commercial Aircraft), LTD.,	:	
BRITISH AIRCRAFT CORPORATION	:	
(Operating), LTD.,	:	
BRITISH AIRCRAFT CORPORATION	:	
(U.S.A.), INC.	:	
DUNLOP LIMITED, DUNLOP HOLDINGS,	:	
INC., DUNLOP CO. OF GREAT BRITAIN	:	
and BRITISH OVERSEAS AIRWAYS, now	:	
known as BRITISH AIRWAYS,	:	
	:	
Defendants.	:	

-----X

IT IS HEREBY STIPULATED, AGREED AND CONSENTED TO by  
and between the attorneys for the appellants, Sharon and Peter  
Fay and the attorneys for the appellee, East African Airways  
Corporation, that a supplemental joint appendix will be prepared  
and filed.

IT IS FURTHER STIPULATED, AGREED AND CONSENTED TO by  
the attorneys for the appellants, Sharon and Peter Fay and  
the attorneys for the appellee, East African Airways Corporation  
that said supplemental joint appendix will include:

- (a) a true copy of this stipulation;
- (b) a true copy of the Order of the Honorable Richard  
Owen, United States District Judge, dated April  
17, 1975 which directed the entry of final  
judgment against Sharon and Peter Fay pursuant  
to Rule 54(b) of the Federal Rules of Civil  
Procedure;



- (c) a true copy of the Notice of Appeal filed in this action after the entry of the aforementioned Rule 54(b) Order dated April 17, 1975; and
- (d) a true copy of defendant's Request to Admit directed to plaintiff Peter Fay.

Dated: New York, New York  
April 29, 1975.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAMES L. MCCARTHY, HUBERTA MCCARTHY,  
PETER F. FAY and SHARON L. FAY,

Plaintiffs,

- against -

EAST AFRICAN AIRWAYS CORPORATION,  
BRITISH AIRCRAFT CORPORATION, LTD.,  
BRITISH AIRCRAFT CORPORATION  
(Commercial Aircraft), LTD.,  
BRITISH AIRCRAFT CORPORATION  
(Operating), LTD.,  
BRITISH AIRCRAFT CORPORATION  
(U.S.A.), INC.  
DUNLOP LIMITED, DUNLOP HOLDINGS,  
INC., DUNLOP CO. OF GREAT BRITAIN  
and BRITISH OVERSEAS AIRWAYS, now  
known as BRITISH AIRWAYS,

Defendants.

73 Civ. 1984-RO

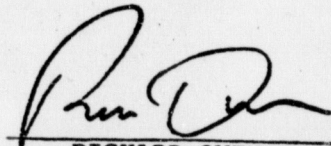
ORDER DIRECTING ENTRY  
OF FINAL JUDGMENT  
PURSUANT TO RULE 54(b)  
OF THE FEDERAL RULES  
OF CIVIL PROCEDURE

Defendant, East African Airways Corporation, having moved for an order pursuant to Rule 12(b)(1) and 12(h)(3) of the Federal Rules of Civil Procedure dismissing this action as to the plaintiffs Peter and Sharon Fay; and the Court having granted said motion by its Memorandum and Order dated October 16, 1974, it is

ORDERED, that the Clerk of this Court enter a final judgment upon the Order herein dismissing the Fay plaintiffs' action against East African Airways Corporation, and the undersigned expressly determines that there is no just reason for delay in the entry of final judgment.

Dated: New York, New York

April 17, 1975.



RICHARD OWEN  
United States District Judge

JUDGMENT ENTERED 4/29/75

Raymond F. Burghardt  
CLERK

MICROFILM

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APR 29 1975



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAMES L. MCCARTHY, HUBERTA MCCARTHY,  
PETER F. FAY and SHARON L. FAY,

Plaintiffs,

73 Civ. 1984 RO

- against -

EAST AFRICAN AIRWAYS CORPORATION,  
BRITISH AIRCRAFT CORPORATION, LTD.,  
BRITISH AIRCRAFT CORPORATION  
(Commercial Aircraft), LTD.,  
BRITISH AIRCRAFT CORPORATION  
(Operating), LTD.,  
BRITISH AIRCRAFT CORPORATION  
(U.S.A.), INC.  
DUNLOP LIMITED, DUNLOP HOLDINGS,  
INC., DUNLOP CO. OF GREAT BRITAIN  
and BRITISH OVERSEAS AIRWAYS, now  
known as BRITISH AIRWAYS,

Defendants.

FILED  
U.S. DISTRICT COURT  
S.D. N.Y.  
MAY 6 2 18 PM '75

Amended

NOTICE OF APPEAL

Notice is hereby given that plaintiffs Sharon and Peter Fay hereby appeal to the United States Court of Appeals for the Second Circuit from the Order entered by the Honorable Richard Owen, United States District Judge, on October 16, 1974, which granted the defendant East African Airways Corporation's motion to dismiss the plaintiffs' complaint for lack of subject matter jurisdiction and from the judgment entered the 27 day of April, 1975 in accordance with the Order of the Honorable Richard Owen, United States District Judge, dated April 17, 1975 which directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the entry of final judgment against the Fay plaintiffs.

Dated: New York, New York

May 6, 1975

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TO: CONDON & FORSYTH, ESQS.  
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Attorneys for Defendant  
East African Airways Corp.

Via

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
JAMES F. MCCARTHY, HUBERTA MCCARTHY,  
PETER F. FAY and SHARON L. FAY,

Plaintiffs,

JUDGE MACMAHON

-against-

EAST AFRICAN AIRWAYS CORPORATION,  
BRITISH AIRCRAFT CORPORATION, LTD.  
BRITISH AIRCRAFT CORPORATION,  
(Commercial Aircraft) LTD.,  
BRITISH AIRCRAFT CORPORATION  
(Operating) LTD.,  
BRITISH AIRCRAFT CORPORATION  
(U.S.A.) INC.,  
DUNLOP LIMITED,  
DUNLOP HOLDINGS, LTD.,  
DUNLOP CO. OF GREAT BRITAIN, and  
BRITISH OVERSEAS AIRWAYS CORPORATION,  
now known as BRITISH AIRWAYS,

Docket No.  
73 Civ. 1984-LFM

REQUEST FOR ADMISSIONS

Defendants.

-----x  
Defendant EAST AFRICAN AIRWAYS CORPORATION requests  
plaintiff PETER F. FAY, within ten (10) days after service  
of this request, to make the following admissions for the  
purpose of this action only and subject to all pertinent  
objections to admissibility which may be interposed at the  
trial:

1. That the document annexed hereto and marked  
Exhibit "A" is a true copy of plaintiff's passenger ticket  
and is genuine.



2. That the said ticket provided for defendant to transport plaintiff from Nairobi, Kenya to London, England on April 18, 1972.

3. That plaintiff PETER F. FAY used this ticket to travel on Flight No. EC720 operated by defendant EAST AFRICAN AIRWAYS CORPORATION on April 18, 1972.

4. That the alleged injuries complained of by plaintiff PETER F. FAY were sustained during the course of plaintiff's transportation pursuant to the passenger ticket annexed hereto as Exhibit "A".

5. The passenger ticket annexed hereto as Exhibit "A" was purchased by plaintiff PETER F. FAY in Nairobi, Kenya.

6. The origin specified in the ticket was Nairobi, Kenya.

7. The destination specified in the ticket was London, England.

Dated: New York, New York  
January 15, 1974

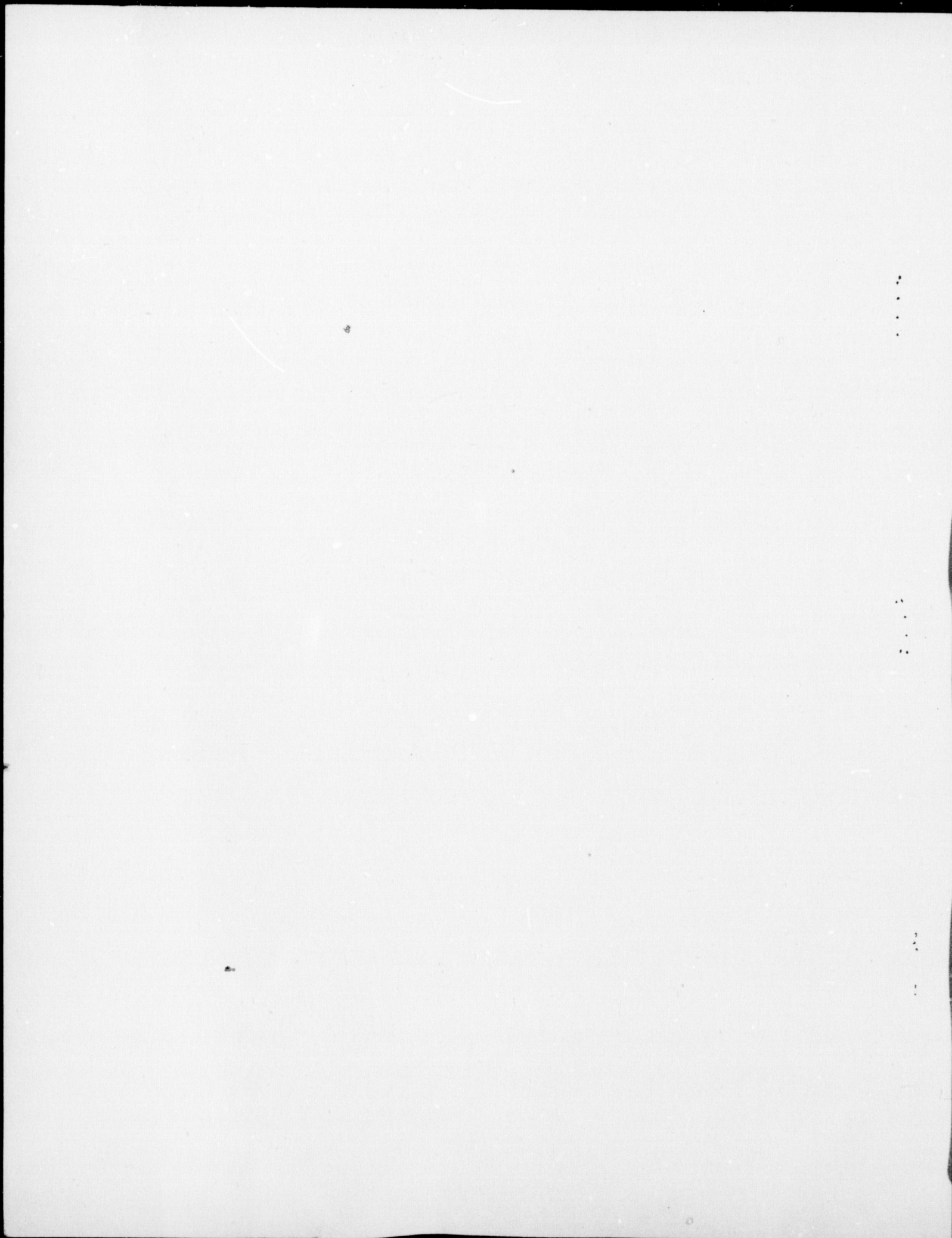
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VIIIa

TO: KREINDLER & KREINDLER  
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IXa

ISSUED BY <b>EAST AFRICAN AIRWAYS</b> SUBJECT TO CONDITIONS OF CONTRACT ON PAGE 2		PASSENGER TICKET AND BAGGAGE CHECK		TICKET COUPON No. <b>1</b>		<b>0941 3.559.928</b>	
NAME OF PASSENGER <b>MR. P. F. FAY</b>		NOT TRANSFERABLE		RESTRICTIONS/ENDORSEMENTS <b>NOT REFUNDABLE VALID FOR EC ONLY NON ENDORSEABLE</b>		DATE OF ISSUE OF THIS TICKET <b>EAA</b> <b>41-4 9009</b> <b>13 APR 1972</b> <b>NAIROBI</b>	
NOT VALID BEFORE <b>18 APRIL 73</b>		NOT VALID AFTER <b>73</b>		RESERVATIONS		BAGGAGE	
GOOD FOR PASSAGE BETWEEN POINTS OUTLINED BY HEAVY RULE		FARE BASIS	CARRIER	FLIGHT/CLASS	DATE	TIME	STATUS
FROM <b>NAIROBI</b>		<b>Y</b>	<b>EC</b>	<b>720</b>	<b>12</b>	<b>400</b>	<b>OK 20</b>
TO <b>LONDON</b>							
							<b>3 40</b>
TICKET DESIGNATOR/TOUR CODE		ORIGIN		DESTINATION			
ISSUED IN CONJUNCTION WITH FORM SERIAL No. (S)		ISSUED IN EXCHANGE FOR CARRIER FORM		SERIAL No. (S)			
TAX CY TOTAL <b>3034P</b>		ORIGINAL ISSUE CARRIER		FORM & SERIAL No.		DATE	
FORM OF PAYMENT						AGENT'S NUMERIC CODE	
						<b>CC34/77</b>	

EXHIBIT A